

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 268 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? Yes
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy  
of the judgement?
4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
2 to 5 No

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HITESHKUMAR JITENDRABHAI RAVAL

Versus

STATE OF GUJARAT

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Appearance:

MR RAJENDRA K JOSHI for Petitioners  
PUBLIC PROSECUTOR for Respondent No. 1

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CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 20/04/98

ORAL JUDGEMENT

Heard learned Advocate Mr. R.K. Joshi appearing  
for the petitioners. The petitioners are sought to be  
prosecuted by respondent No.2 in the court of Chief  
Judicial Magistrate, Bhavnagar, District Bhavnagar, by  
filing Criminal Case No. 39 of 1998. The complaint was

filed under Sections 420, 406 read with 34 of the IPC. That learned JMFC having taken the verification of the petitioner vide order dated 30th March, 1998, referred the complaint to P.I., 'A' Division Police Station, Bhavnagar, for investigation under Section 156(3), stating the reason that in the facts and circumstances of the complaint, it is necessary to take the assistance of the police for investigation.

2. Learned Advocate Shri R.K. Joshi appearing for the petitioners who are the original accused has referred to and relied on the observations made by this Court in the matter of SURESHKUMAR GUPTA vs. STATE OF GUJARAT, reported in 39 (1) GLR page 327 and has urged that learned Chief Judicial Magistrate has failed to assign any reason for referring the matter to police investigation under Section 156(3) instead of holding inquiry under Section 202 of the Cr.P.C. On the same contention, it is urged on behalf of the petitioners that trial court having committed a jurisdictional error, the petitioners have come for setting aside the said order and to direct the Chief Judicial Magistrate to inquire the case under Section 202 of the Cr.P.C.

3. I have gone through the copy of the complaint produced at Annexure-A page Nos.9 to 16 and also the impugned order dated 30th March, 1998. Prima facie, there is no apparent error on the part of the learned Chief Judicial Magistrate as he has recorded a finding that in the facts and circumstances of the case without the assistance of the police investigation, the complaint could not be decided and as such the matter is referred to police under Section 156(3) of the Cr.P.C. Apart from that fact, the original accused have no locus standi to challenge such order by way of Revision Application and hence the present petition is not tenable in law. The petition stands disposed of as rejected summarily. No order as to costs.

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